

---

---

---

---

# Management Audit: Department of Transportation Right-of-Way and Land Acquisition

*Prepared for the Committee on Legislative Research  
by the Oversight Division*

*Jeanne Jarrett, CPA, Director*

***Audit Team:***

***Mickey Wilson, CPA, Team Leader, James Oetting, CPA, Robert Boone,  
Wayne Blair***

***February, 1997***

## TABLE OF CONTENTS

|   |         |
|---|---------|
| COMMITTEE ON LEGISLATIVE RESEARCH .....               | ii      |
| LETTER OF TRANSMITTAL .....                           | iii     |
| EXECUTIVE SUMMARY .....                               | iv,v    |
| INTRODUCTION, BACKGROUND .....                        | page 1  |
| OBJECTIVES, SCOPE .....                               | page 5  |
| METHODOLOGY .....                                     | page 6  |
| FINDINGS/RECOMMENDATIONS/AGENCY RESPONSES             |         |
| #1 Procedures on Disposal of Realty .....             | page 6  |
| #2 Appraisals Prepared by Noncertified Staff .....    | page 8  |
| #3 Information in DOT Database Not Accurate .....     | page 9  |
| #4 DOT Files Missing Documents .....                  | page 10 |
| #5 Prior Transactions Not Disclosed .....             | page 12 |
| #6 Potential Conflicts of Interest .....              | page 13 |
| #7 Real Estate Holdings Not Managed Effectively ..... | page 14 |
| #8 Moving Expenses Not Competitively Bid .....        | page 16 |

## COMMITTEE ON LEGISLATIVE RESEARCH

---

### OVERSIGHT SUBCOMMITTEE

THE COMMITTEE ON LEGISLATIVE RESEARCH, Oversight Division, is the audit agency of the Missouri General Assembly as established in Chapter 23 of the Revised Statutes of Missouri. The programs and activities of the State of Missouri cost approximately \$12 billion annually. Each year the General Assembly enacts laws which add to, delete or change these programs. To meet the demands for more responsive and cost effective state government, legislators need to receive information regarding the status of the programs which they have created and the expenditure of funds which they have authorized. The audit work of the Oversight Division provides the General Assembly with a means to evaluate state agencies and state programs.

THE OVERSIGHT DIVISION conducts its audits in accordance with government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to auditors' professional qualifications, the quality of audit effort and the characteristics of professional and useful audit reports.

THE COMMITTEE ON LEGISLATIVE RESEARCH is a permanent joint committee of the Missouri General Assembly comprised of the chairman of the Senate Appropriations Committee and nine other members of the Senate and the chairman of the House Budget Committee and nine other members of the House of Representatives. The Senate members are appointed by the President Pro Tem of the Senate and the House members are appointed by the Speaker of the House of Representatives. No more than six members from the House and six members from the Senate may be of the same political party.

AUDITS ARE ASSIGNED to the Oversight Division pursuant to a duly adopted concurrent resolution of the General Assembly or pursuant to a resolution adopted by the Committee on Legislative Research. Legislators or committees may make their requests for program or management audits through the Chairman of the Committee on Legislative Research or any other member of the Committee.

#### COMMITTEE ON LEGISLATIVE RESEARCH

##### *Senators:*

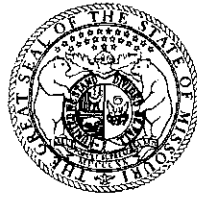
*Senator Harry Wiggins, Chairman*  
*Senator Harold Caskey*  
*Senator William Clay, Jr.*  
*Senator Ronnie DePasco*  
*Senator Franc Flotron*  
*Senator Mike Lybyer*  
*Senator Walt Mueller*  
*Senator Larry Rohrbach*  
*Senator John Russell*  
*Senator Betty Sims*

##### *Representatives:*

*Representative Larry Thomason, Vice Chairman*  
*Representative Todd Akin*  
*Representative Robert Clayton*  
*Representative Nancy Farmer*  
*Representative Raymond Hand*  
*Representative Kenneth Legan*  
*Representative Sheila Lumpe*  
*Representative Randall Relford*  
*Representative Delbert Scott*  
*Representative Tim VanZandt*

**SENATORS:**

HARRY WIGGINS  
 Chairman  
 HAROLD L. CASKEY  
 WILLIAM L. CLAY, JR.  
 RONNIE DePASCO  
 FRANC E. FLOTRON  
 MIKE LYBYER  
 WALT MUELLER  
 LARRY ROHRBACH  
 JOHN T. RUSSELL  
 BETTY SIMS

**STATE OF MISSOURI****REPRESENTATIVES:**

LARRY THOMASON  
 Vice Chairman  
 TODD AKIN  
 ROBERT CLAYTON  
 NANCY FARMER  
 RAYMOND W. HAND  
 KENNETH LEGAN  
 SHEILA LUMPE  
 RANDALL RELFORD  
 DELBERT SCOTT  
 TIM VAN ZANDT

**COMMITTEE ON LEGISLATIVE RESEARCH**

STATE CAPITOL  
 JEFFERSON CITY, MISSOURI 65101-6806

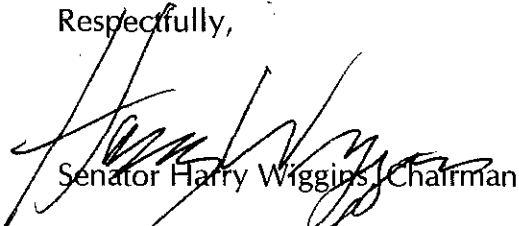
February, 1997

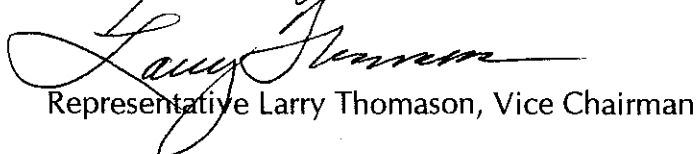
Members of the General Assembly:

As authorized by Chapter 23, RSMo, the Committee on Legislative Research adopted a resolution in May, 1996 directing the Oversight Division to perform a management audit of the Department of Transportation Right-of-Way and Land Acquisition which included the examination of records and procedures in the Department of Transportation to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The accompanying report includes Oversight's comments on internal controls, compliance with legal requirements, management practices, program performance and related areas. We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates.

Respectfully,

  
 Senator Harry Wiggins, Chairman

  
 Representative Larry Thomason, Vice Chairman

## EXECUTIVE SUMMARY

The Department of Transportation is responsible for the development of the state's highway system, aviation, waterways, transit and railroads. The design, location, construction and maintenance of the state's highway system are among DOT's main duties. The Division of Right of Way is responsible for developing policies and procedures relating to the proper method of right-of-way acquisition, relocation assistance, land acquisition under the junkyard and outdoor advertising control laws and the acquisition of other land needed by DOT. These functions are accomplished with the services of 128 full-time employees. During the five-year period covered by Oversight's audit DOT purchased \$249 million worth of additional real property.

**Has the DOT acquired right-of-way and other land in the most effective manner?** Under current policies, potential conflicts-of-interest may not be revealed during the land acquisition process. Oversight noted an instance where a key employee who likely had inside knowledge of a pending project was involved in sizeable personal real estate transactions which included property in and adjacent to the project. Oversight also questioned the policies regarding required qualifications of some professional DOT staff positions. Real estate appraisals ranging from \$119,000 to \$2,205,000 were prepared by internal staff appraisers who were not certified appraisers, even though outside appraisals must be done by certified appraisers. The DOT's acquisition files were unorganized and, in many cases, missing important documents. In one case it was discovered that DOT sold a \$200,000 tract of land they thought was owned by the state. Subsequent to the sale it was found that DOT only had a surface easement and could not legally transfer the property. Additionally, Oversight determined that information contained in the Division of Right-of-Way database was not comprehensive and did not accurately reflect land transactions of the DOT.

**Is the DOT managing its land holdings effectively and efficiently?** The DOT frequently purchases property which later becomes excess to its needs. Unfortunately the department does not know how much excess property it owns and therefore cannot make the most efficient use of it. The department disposes of property only upon request from an outside party wishing to purchase it. Likewise, the department leases excess property, but only on request. Since adequate records do not exist in the department regarding an inventory of excess land and buildings, Oversight could not make a projection on how much the state was losing in the way of forgone revenues from leasable or saleable properties. Oversight strongly recommends the DOT begin to actively inventory and manage their surplus or excess properties. Of the disposals examined by Oversight, we found that DOT does not adhere to its own procedures in many areas and lacks procedures in others. Oversight noted six transfers of property to a city or county for one dollar or less and was unable to determine whether appraisals had been done on the transferred properties to determine their market values.

This audit includes detailed findings with recommendations for changes in management practices and procedures. The Department of Transportation's official responses to the findings and recommendations are incorporated into the report. Our audit was performed in accordance with generally accepted government auditing standards as they relate to program and performance audits. We did not examine departmental financial statements and do not express an opinion on them.

We acknowledge the cooperation and assistance of staff of the Department of Transportation during the audit process.

Jeanne A. Jarrett, CPA, CGFM  
Director, Oversight Division

---

## **Introduction**

The Joint Committee on Legislative Research directed the Oversight Division to conduct a management audit of the Department of Transportation's (DOT) right-of-way and land acquisition program. The audit had three major components: to determine and evaluate if DOT is acquiring right of way and other land in the most effective and efficient manner; to determine and evaluate if DOT is disposing of right of way and other land in a prudent and unbiased manner; and to determine and review if DOT is following federal and state regulations, procedures, policies, and guidelines for relocation assistance payments.

---

## **Background**

The Department of Transportation (DOT) is governed by a six-member bipartisan board, the Highways and Transportation Commission (HTC). This board is appointed by the governor with the consent of the Senate. Members serve a term of six years and no more than three members of the board may be from the same political party. DOT is responsible for the development of the state's highway system, aviation, waterways, transit and railroads. The design, location, construction and maintenance of the state's highway system are among DOT's main duties. The state is divided into ten districts each headed by a district engineer. The districts have the main responsibility to develop the state's roads with headquarters in Jefferson City providing support and overhead functions.

One of the support divisions is the Division of Right-of-Way (Division) which is responsible for developing policies and procedures relating to the proper method of right-of-way acquisition, relocation assistance, land acquisition under the junkyard and outdoor advertising control laws, and the acquisition of other land needed by DOT. DOT is one of only four state agencies allowed to acquire and convey real estate, the others being the Conservation Commission, the Department of Natural Resources, and the University of Missouri. DOT purchased \$249,000,000 worth of real estate during the 5 year audit period. The Division also provides training to the districts on policies and procedures and monitors the proper implementation and

OVERSIGHT DIVISION  
Management Audit 1996  
Right of Way

maintenance of these procedures. Each of the ten districts has a right-of-way unit (Districts) headed by a Right-of-Way Agent who reports to the district engineer. These district units accomplish the actual implementation of policies developed by the Division. They perform the original cost estimates, acquire right-of-way, facilitate payments for relocation, dispose of excess realty, enter into leases, and contract for the sale of improvements. The district staffing levels are as follows: Central Office in Jefferson City, 12; District 6 in St. Louis, 23; District 4 in Kansas City, 15; District 5 in Jefferson City, 15; District 7 and 8, 11; all other districts, 9, for a total of 128 full-time employees.

The Department's Office of Chief Counsel is involved in the condemnation of needed right-of-way. When a landowner and DOT can not agree on compensation for needed property, condemnation proceedings are filed allowing the DOT to acquire the property through the right of "eminent domain".

The right-of-way acquisition process can be summarized in six steps:

- A new project is planned and designed.
- A Right-of-Way Construction Plan is approved.
- Acquisition authority is requested by the district.
- Acquisition of the right-of-way is accomplished.
- A right-of-way clearance is issued.
- Letting of contracts for construction can begin.

An annual Right-of-Way and Construction Program (Annual Program) is presented and approved by the Highway Commission. This program is a collaborative effort of the individual districts and the Divisions of Design, Construction, and Right-of-Way. The Program includes a schedule along with the funds available for right-of-way acquisition. The right-of-way plans are prepared in the districts and approved by design units in each district.

Once the Annual Program has been approved and the projects advance to the stage where authority for acquisition of right-of-way needs to begin, approval must be received from a number of sources. The first step is for the Project Manager (Manager) in the district to make a request for acquisition authority. In addition, the District must review and submit plans for the project to the Division. If the Federal Highway Administration (FHWA) is participating the request must first go to the Federal Aid Engineer. Upon



approval by the Federal Aid Engineer notice will be sent to Division, the Fiscal Services Division, and FHWA. Once the Manager receives approval from the Federal Aid Engineer an additional notice is sent to District, Division, FHWA, and Fiscal Services. If this is the first authority for a project Fiscal Services will be advised and the project will be added to the active project list and given a unique accounting code. This allows for expenditures to be processed. Any modifications to the project must be separately approved.

District staff will contact the current landowner of the needed right-of-way and will arrange to meet with them to review the title to the property explain right-of-way plans and acquisition procedures, and make an initial offer. A second meeting will involve a review of items discussed in the first meeting. The third meeting should result in an acceptance or rejection of the initial offer. If no decision or a rejection of the offer is made a full explanation of the condemnation process is provided. If a counteroffer is made this will be reported to the district Right-of-Way Agent and further contact will be required.

An administrative settlement is an acquisition of right-of-way in which the payment to the landowner differs from the calculation of "just compensation". This settlement requires approval by the Division Director if the amount above "just compensation" exceeds \$2,500, or 15% of the "just compensation" amount, whichever is greater. Below that level the district Right-of-Way Agent can approve administrative settlements. Under an abbreviated process the District may acquire right-of-way under a hardship exemption, where the landowner is unable to sell his property, or protective buying, to prevent development which would increase the ultimate costs or limit the highway location choices. When land for right-of-way is acquired from DOT employees Department policy encourages the use of the condemnation process in order to eliminate any appearance of impropriety.

All improvements such as buildings which can be removed or razed from right-of-way are inventoried as part of the acquisition process. The disposal of these improvements is done through an auction, sealed bids, or possibly without a public sale. In addition to disposal of improvements, basements may need to be backfilled, wells plugged, and waste and environmental concerns addressed.

Cost estimates for right-of-way acquisition process through a number of different stages with the accuracy of the estimate increasing at each stage:

- First - This estimate is made when the project is included in the Program.
- Reconnaissance Stage - This estimate is provided for the most likely location.
- Strip Map Stage - This estimate is made after final selection of the actual project location.
- Right-of-Way Approved - After actual plans are received and the project moves to the current fiscal year another estimate is performed.
- Commission Approved - When the final design is presented and approved by the Commission another estimate is accomplished
- Acquisition Complete - Although included as an estimate at this stage actual costs are known and this calculation allows for funding to be adjusted to the actual amount needed.

The DOT disposes of, and leases, excess realty that it no longer needs to maintain the state highway system. Most disposals of Class 1 or 2 property require approval by the Commission. These disposals or leases are generated by a request from the public. Class 1 is property in an existing right-of-way for which an in-depth review will be performed. The only exception to this is when a frontage, outer, or county road is being transferred to a city or county. In this case the district will transfer the property through a quitclaim deed. Class 2 property is outside current right-of-way and includes uneconomic remnants and abandoned right-of-way. DOT policies prohibit any employee involvement as the acquirer or lessee of any excess realty.

When a request is received from an individual or entity to acquire realty, DOT has a process that must be followed to actually dispose of the property. The request must also be accompanied by a fee of at least \$50. The first step in the process is a review by the district engineer (Engineer). If the Engineer approves the request it is forwarded to the Excess Right-of-Way Committee (Committee) in that district. Membership in the committee consists of the district Right-of-Way Agent as chairperson, one member each from the Design, Construction, and Maintenance sections in that district, and the district Utilities Engineer as an ex officio member. If the committee approves, an appraisal and deed are prepared for the property. This information is forwarded to the Division. Upon Division approval the information is forwarded to the FHWA for approval then presented to the

Commission for final approval. Subsequently, the district is notified of the authorization to sell and the parcel is sold either by mutually agreed terms to one buyer or open sale or bid.

When a district receives a request to lease property owned by the DOT a similar process is followed. The request is forwarded to the District Right-of-Way Committee who must approve the lease. Upon approval the lease request is forwarded to Division along with data summarizing the lease. If federal participation was involved then the FHWA in addition to Division must approve the lease. Upon receiving proper approval the district executes the lease. All lease payments are sent directly to Fiscal Services with a copy to Division. Leases can not exceed five years in duration and must be based on a market value study. The study and the rate are reviewed by the Chief Appraiser and the district Right-of-Way Agent. The property leased must be inspected once per year. The Division is responsible for maintaining an inventory of all lease agreements.

---

## **Objectives**

The audit had three primary objectives: to determine and evaluate if DOT is acquiring right of way and other land in the most effective and efficient manner; to determine and evaluate if DOT is disposing of right of way and other land in a prudent and unbiased manner; and to determine and review if DOT is following federal and state regulations, procedures, policies, and guidelines for relocation assistance payments.

---

## **Scope**

The scope of the audit concentrated on the acquisition and disposal of right-of-way and land and the payment of relocation benefits and other operations for the time period of July 1, 1991 through June 30, 1996. The main areas considered in the audit were: the process of acquiring right-of-way and land, procedures for disposing of excess right-of-way and land, the qualification process and payments for relocation benefits.

## Methodology

The Oversight Division conducted the audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States as those standards relate to performance audits. The methodology used by the Oversight Division included tests of samples of transactions and evaluations of management controls to the extent necessary to fulfill our audit objectives. A primary method used to measure objectives was conducting personal interviews with agency personnel. Additionally, the auditors performed on-site testing of controls and procedures. DOT also provided documentation as requested. Acquisition, disposal, and general project files were reviewed for proper documentation. Checks and payment vouchers were traced and documented. Professional certifications were also verified.

---

## Findings

### Recommendations

### Agency Responses

|                   |   |
|-------------------|---|
| <b>FINDING#1:</b> | <b>The Department of Transportation does not adhere to its own procedures relating to the disposal of excess realty as stated in their Right-of-Way Policies and Procedures Manual and lacks procedures for other types of disposals.</b> |
|-------------------|---|

A random sample of excess land disposals was tested from District 5, 6, and 8. The disposals were tested for compliance with procedures outlined in the Department of Transportation (DOT), Division of Right-of-Way (Division) procedures manual. The test verified: the proper request from the public to purchase, proper fee payment, committee and district engineer approval, appraisal, deed preparation and type of deed, Federal Highway Administration approval, approval by the Highways and Transportation Commission, and the difference between the appraised value and the sale price. As part of the review Oversight noted transactions for the disposal of excess land that did not follow the general procedures in the Division

procedures manual. The general procedures are intended for a sale when someone from the public inquires about purchasing DOT-owned land. However, the general procedures were not applied when land was exchanged for other right-of-way or when a change in route status warranted a transfer of land to a city or county. Of the thirty disposals tested by Oversight, six were transferred to a city or county for one dollar or less. Oversight was unable to determine if an appraisal had been done on these transferred properties.

### **RECOMMENDATION TO FINDING #1**

Oversight recommends the Department of Transportation (DOT) adopt policies and procedures which apply to the disposal of all excess land no matter how it is disposed. These policies should be monitored for compliance. DOT should follow its own policies and procedures regarding the disposal of excess land. In addition, DOT should ensure that the state is receiving fair value for all disposed properties and review all disposals to ensure accuracy and completeness.

### **Agency Response to Finding #1**

#### ***Department of Transportation:***

*The Department of Transportation believes that it does have in-place policies and procedures that apply to the disposal of all excess land no matter how it is disposed of. The disposal of all land is monitored. The initial monitoring takes place as the district is recommending that tract be disposed of. The recommendation is sent to the division office which reviews the recommendation prior to presenting to the Commission for approval or execution. The Quality Assurance Review Team also monitors excess land and right of way disposals with other phases of right of way.*

*We also wish to point out, except for a road relinquishment, all areas disposed of to the public or a public agency, including uneconomic remnants, have a value established. If the area is disposed of for less than that value, there must be justification to do so.*

|  |
|--|
| <b>FINDING #2:</b> Not all appraisals performed by the Department of Transportation were prepared by appraisers certified by the Missouri Real Estate Appraisers Commission. |
|--|

The Department of Transportation's (DOT) Appraisal Procedures Manual requires real estate appraisers employed under contract by DOT to be state certified, in good standing with the Missouri Real Estate Appraisers Commission, and be able to provide evidence of appraisal experience in the type of property being appraised. DOT internal staff appraisers are not required to be certified. Oversight believes that internal staff appraisers should meet the same standards as contract real estate appraisers. During a review of real estate transactions Oversight noted two employees of DOT who performed appraisals who were not certified. Appraisals performed by these two employees ranged from \$119,884 to \$2,205,000. Subsequent to these appraisals these two employees have retired.

In addition, the Appraisal Procedures Manual used by DOT prohibits district and division right-of-way personnel from holding additional jobs in the real estate profession including sales, appraising, and escrowing accounts. Nine out of thirty-two DOT appraisers are licensed as real estate agents by the Missouri Real Estate Commission. The benefits of being a licensed real estate agent are the increased awareness of area real estate values and the increased knowledge of current trends in relocation methods and moving expense values.

### **RECOMMENDATION TO FINDING #2**

Oversight recommends that all appraisers issuing appraisals as part of the right-of-way acquisition process be certified by the Missouri Real Estate Appraisers Commission. In addition, Oversight recommends that the Department of Transportation consider requiring all its employee appraisers to maintain an active real estate license.

### **Agency Response to Finding #2**

#### ***Department of Transportation:***

*The Department of Transportation believes that it is questionable if requiring all employees that prepare appraisals to be certified would be of benefit to the department. As the audit pointed out, it is not a requirement of the*

*Department of Transportation that all employees preparing appraisals to be state certified. To deny an employee the opportunity to prepare appraisals simply because they are not certified would also deny them the opportunity to gain the experience required to be state certified. The job specifications for all four classifications of right of way specialists requires educational courses in appraisal as well as other phases of right of way to advance and all job specifications, with the exception of the certified specialist, require some training in appraisals to advance. It is also required that all specialists below the salary grade of a senior specialist be approved by the Right of Way Division to prepare appraisals. The department believes that when there is a need to employee an appraiser, the best method is to promote from existing staff.*

*Officials from the Department of Transportation believe that while continuing education required for a real estate sales license might be of some benefit, most of the continuing education would not be relevant to the appraisal profession. The department states that for an appraiser to maintain their certification, thirty hours of continuing education is required every three years. The job specifications for each classification of right of way specialist requires not only cross-training but also continuing educational requirements to advance to the next salary grade. The Right of Way Division has a training committee that has planned education courses from the year 1993 through the year 2000.*

|                    |  |
|--------------------|--|
| <b>FINDING #3:</b> | <b>The information contained in the Division of Right-of-Way database is not comprehensive and does not accurately reflect the right-of-way, easements, and other land transactions of the Department of Transportation.</b> |
|--------------------|--|

The Division of Right-of-Way (ROW) has a database containing information on right-of-way, easement, and other land transactions. The database information includes project number, parcel number, owner, purchase amount, and purchase date. In Oversight's review of these transactions, differences were noted between the ROW database and records in the district offices and the Division of Fiscal Services (DFS). The database maintained by the ROW is not comprehensive or accurate. Oversight traced from acquisition files in the districts and from payment vouchers in DFS to the ROW database and found fifty-eight acquisition dates that did not agree. Oversight also noted that in twenty-one of one hundred eighty-nine

acquisitions reviewed, the ROW database did not include any information relating to these transactions.

### **RECOMMENDATION TO FINDING #3**

Oversight recommends that the Division of Right-of-Way maintain an accurate and complete database of all right-of-way, easement, and other land transactions.

### **Agency Response to Finding #3**

#### ***Department of Transportation:***

*The Right-of-Way Division partially agrees with the recommendation. It appears that when this database was converted for use by Oversight either some fields were lost or an incorrect field was looked at for final approved compensation. However, there is a glitch in our database regarding date of payroll. This problem may not have been found had not Oversight noticed it. We are working on the program to correct it. We do have a new project and parcel tracking record on Lotus Notes that will eventually replace the present database.*

|                    |  |
|--------------------|--|
| <b>FINDING #4:</b> | <b>The Department of Transportation acquisition files were unorganized and, in many cases, were missing important documents.</b> |
|--------------------|--|

The acquisition process of the Department of Transportation involves a large number of written forms and documents in a parcel's file that are required to include title insurance policy form, the appraisal whether performed in-house or contracted with an outside appraiser, the appraisal performance evaluation, documentation of the first meeting with the parcel owner, and payment delivery form. Oversight found in its review certain instances where documentation was not included in right-of-way acquisition files. Of 239 files reviewed in District 8 for the Branson Hi-Road, seventeen did not include the required Appraiser Performance Evaluation Form. In forty-three of these files, no documentation could be found of a payment delivery form signed by the seller. In addition, Oversight found that forms and documents were not placed in the files in a consistent or organized manner. Depending upon the district and the district employee handling the files, Oversight



found forms and documents to be in different order between files. Oversight also noted that DOT had sold a parcel of land for \$200,000 they thought was owned by DOT. Subsequent to the sale it was found that DOT only had a surface easement to the property. If DOT had a logical and standard organization process for the files, errors such as this would be avoided and additional staff time spent reviewing for proper forms and documents would be saved.

#### **RECOMMENDATION TO FINDING #4**

Oversight recommends that the Department of Transportation (DOT) consider creating a checklist to be kept at the beginning of each acquisition file. The checklist should include each item that must be completed or checked as part of the acquisition process. A space to date and initial the item could be included to verify completion. The checklist could serve as an index to the file with forms and documents placed in the same manner in all files. These improvements would make files easier to review and would help prevent any omissions by DOT staff.

#### **Agency Response to Finding #4**

##### ***Department of Transportation:***

*The Right-of-Way Division agrees with the recommendation. The statewide filing system is by county, route, and project. Items or correspondence specific to a project are filed in the project file while items, documents, or correspondence specific to a parcel are filed in the parcel file. Each district will vary on where various documents are filed. If one is not familiar with each district's filing system, it is confusing. In fact, the Right of Way Quality Assurance Review Team, that visits each district annually and review's various phases of right of way acquisition had this same finding. In addition, we do wish to point out that in your comments you reference problems associated with the proposed sale of a parcel of land for \$200,000. This problem was in no way associated with the effectiveness of the filing system. The Right of Way Division Quality Assurance Review Team is currently addressing this issue and will consider this recommendation.*

|                    |  |
|--------------------|--|
| <b>FINDING #5:</b> | <b>The Department of Transportation, Division of Right-of-Way does not ensure the disclosure of prior real estate transactions during the acquisition process.</b> |
|--------------------|--|

The Department of Transportation (DOT), Division of Right-of-Way (ROW) right-of-way acquisition policies require that when a value-finding appraisal is completed by DOT staff or when an outside real estate appraiser is used the appraisals must include a disclosure of all real estate transactions on the parcel of land for the five years prior to the appraisal date. Oversight reviewed 282 acquisitions and noted ninety-nine instances where there was no disclosure of real estate transactions for the last five years. For example, in the Eastland Drive/Highway 50 interchange in District 5, twenty-five parcels were reviewed. Of the twenty-five parcels reviewed only five included disclosure of past real estate transactions and of the six performed by outside real estate appraisers two did not include the required disclosure. By requiring the disclosure of all real estate transactions on the parcel of land for the five years prior to the appraisal date DOT would ensure that any potential conflicts-of-interest would be disclosed.

#### **RECOMMENDATION TO FINDING #5**

Oversight recommends that the Department of Transportation, Division of Right-of-Way include the verification of this disclosure in their appraisal procedures.

#### **Agency Response to Finding #5**

##### ***Department of Transportation:***

*The department's appraisal procedures do require appraisers to report and verify the terms of any and all real estate transactions within the past five years that involve the property being appraised. However, the procedures do not require an entry of any type if there has been no sales transactions within the past five years. We will revise the procedures to require an entry of some type that will enable a reader of the report to determine if there were no transactions or if the appraiser has failed to report the transactions, if known.*

|                   |   |
|-------------------|---|
| <b>FINDING #6</b> | <b>Employees of Department of Transportation, Division of Right-of-Way that are involved in the land acquisition process are not required to disclose real estate transactions.</b> |
|-------------------|---|

In June, 1992, an economic emergency plan for a traffic loop, known as the Branson Hi-Road project, around Branson was declared. The Department of Transportation (DOT) hired an outside architectural and engineering firm in June, 1992 to plan and design the project. The first purchase of right-of-way by DOT was made in November, 1993. As part of Oversight's review of the Branson Hi-Road project in District 8, it was determined that a key employee of the Department of Transportation (DOT), District 8 Right-of-Way (District) office had been involved in a real estate transaction involving approximately 3,100 acres with a sales price of approximately \$3,000,000 in July, 1993. DOT acquired approximately 60 acres from this tract for \$96,000 for right-of-way purposes in November, 1994. DOT has no policies that would require the disclosure or restrict the ownership of real estate by key employees involved in the acquisition of right-of-way. Oversight believes there may be an appearance of a conflict-of-interest with an employee or employees who may have had inside knowledge of the pending project. DOT should impose reasonable restrictions on the transfer of real estate by key employees involved in the acquisition of right-of-way. Other state departments have policies prohibiting disclosure of privileged information for personal gain or situations which may create the appearance of conflicts-of-interest.

#### **RECOMMENDATION TO FINDING #6**

Oversight recommends that the Department of Transportation (DOT) implement policies and procedures to require key employees to disclose all real estate interests. In addition, Oversight believes that any transactions of real estate to be purchased or sold or property adjacent to a project should not involve a DOT key employee and should be monitored closely for any potential unethical situations. DOT employees should not profit from privileged information regarding pending projects.

### **Agency Response to Finding #6**

#### ***Department of Transportation:***

*The Right-of-Way Division disagrees with the recommendation. There are procedures in place that require the Right-of-Way Division to advise the Commission of any and all employees and Commissioners from whom right of way will be acquired on a project. The Commission must also approve the offer being extended to the employee or commissioner. Initiating such a policy that would require employees to disclose real estate interests would require that almost all of the department's approximately 6,000 employees be included not just key personnel. This is due to the department's process in developing a project being a team effort that involves numerous employees from several divisions, most of whom would not be considered key personnel. The Right of Way Division agrees with Oversight that department employees should not profit from privileged information involving highway projects. Right of Way states that if the department had such a policy as recommended and if an employee decided to obtain personal monetary gain from information involving a highway project, there are means to acquire real estate and conceal the identity of the true owners.*

|                    |  |
|--------------------|--|
| <b>FINDING #7:</b> | <b>The Department of Transportation does not maintain a record of or actively manage the land and right-of-way holdings of the department.</b> |
|--------------------|--|

The Department of Transportation (DOT) does not possess internal information regarding properties which are surplus to their needs. If DOT could make these determinations, decisions could be made regarding possible sale of properties, or lease of properties for agricultural or commercial purposes. Currently, DOT sells properties when an inquiry is received by an outside party wishing to purchase the property. The state is likely losing out on significant revenues because DOT has not actively managed their land holdings.

Oversight contacted a private business with extensive real estate holdings either by ownership title or by easement. The business indicated they were using a personal computer-based software system that indexes each parcel of property either purchased or obtained with an easement. The software allows for a storage and retrieval system that allows up-to-date information on all real estate holdings. Oversight believes that if DOT had a similar

system, a computerized listing could indicate date purchased, amount paid, county located (if applicable), previous owner, project number, parcel number, whether DOT had proper title or type of easement, and if applicable, type of disposition. This listing would be managed and reviewed to determine where excess land was located for possible sale or disposition. While the market value of all land holdings of the DOT is unknown, DOT purchased over \$249,000,000 of additional land and right-of-way during the five years ending June 30, 1996. With this volume, it becomes critical to DOT to know what its real estate holdings are at all times.

### **RECOMMENDATION TO FINDING #7**

Oversight recommends that the Department of Transportation develop, maintain, and actively manage a listing of all land and right-of-way properties acquired. In addition, Oversight also recommends that the department evaluate outside software systems for use by the department that would enhance the maintenance and management of department-owned properties for the benefit of the state.

### **Agency Response to Finding #7**

#### ***Department of Transportation:***

*The Right-of-Way Division agrees with the recommendation. The Division is in the process of developing a database to inventory all land that is or might be in the future, excess to the department's needs. The database will have information specific to each property and will include a geographical information system. The inventory will begin with properties such as district offices, maintenance sites, resident engineers' offices, etc. The second step will be to inventory land along the major traffic arterials where there is development and interest in any excess land that might be available. The final step will be to identify property in areas where there is little, if any, interest in the purchase or lease of excess land. The actual completion of the inventory could take up to two years to complete; however, as prime sites are identified, and declared excess to department needs, they will be sold or leased. In addition, we also intend to work with private marketing companies or brokers to market appropriate sites and to create the position of a property manager in some, if not all, districts. The individuals holding these positions will deal specifically with the inventory, identification, and disposal or lease of land declared to be excess to the department's needs.*

**FINDING #8:**

**The Department of Transportation, Division of Right-of-Way has not taken advantage of opportunities to reduce moving expenses with a competitive bidding process.**

The Uniform Relocation and Real Property Acquisition Policies Act provides for the payment of a variety of benefits to relocatees who are displaced by the construction of highways which are funded in part by the federal government. Those mandated benefits include replacement housing, moving costs, increased interest payments, incidental costs, and rental subsidies. The Department of Transportation (DOT) paid out over \$15,500,000 for these benefits during the audit period. Current DOT policy is to allow the relocatee to seek two bids from an approved list of certified moving companies for the moving of the personal property and submit these bids to DOT for review and approval of costs. The relocatee may also chose to be paid moving costs from a federal cost schedule (scheduled move) or self-move and be paid for actual and reasonable moving costs that must be documented, reviewed, and approved by DOT. Oversight believes that if DOT would bid the moving contract on a statewide or project basis there could be opportunities for savings.

**RECOMMENDATION TO FINDING #8**

Oversight recommends that the Department of Transportation, Division of Right-of-Way use a competitive bidding process for obtaining services in the relocation of homes and businesses on a statewide or project basis.

**Agency Response to Finding #8**

***Department of Transportation:***

*The Division of Right-of-Way disagrees with the recommendation. The Code of Federal Regulations and Missouri Department of Transportation (DOT) Procedures provide for a relocatee to choose one of three different methods of being reimbursed for the actual and reasonable expense associated with moving personal property from the area of right of way or easements required for highway purposes. DOT believes that the soliciting of bids from movers for moving of residential and businesses on a statewide or project basis would not be very practical. DOT believes that those*

*companies submitting a proposal would have to do so prior to offers for the property being made by DOT. DOT also believes that companies that would be willing to submit a proposal would in all probability bid high due to not knowing exactly what items were to be moved, how many moves would actually be performed statewide or on a project basis, or when such moves might occur. DOT also believes that companies may be reluctant to submit a proposal due to having to prepare proposals on numerous properties and having no assurance of being the successful bidder. DOT further believes many difficulties would be created if DOT advised the relocatee that it is mandatory that the mover selected by DOT perform the move and during the move problems and/or inconveniences were created for the relocatee.*

*During Fiscal Year 1996 DOT processed 150 payments for residential moves and 80 business moves. The business moves can include an amount of up to \$10,000 for re-establishment of the business. DOT reviews all moving costs for reasonableness. The average cost of all residential moves during the last fiscal year was \$2,114 and the average cost of businesses was \$29,290, twenty-two of which included re-establishment cost.*

*DOT believes that if moving companies were willing to provide bids for moving relocatees on a state or project basis, there would be little, if any, savings. DOT also believes that by allowing the relocatees to select the two bidders, from an approved list of certified movers for the actual cost move, relations between the relocatee and DOT are improved and less strained by allowing the relocatee to have input into the process rather than having it dictated to them as to what company would move their personal property.*

